

1 LAW OFFICES OF RANDOLPH H. GOLDBERG
2 RANDOLPH H. GOLDBERG, ESQ.
3 4000 S. Eastern Avenue, Suite 200
4 Las Vegas, Nevada 89119
(702) 735-1500
5 Attorney for Debtor
Nevada State Bar no. 5970

6 UNITED STATES BANKRUPTCY COURT
7 DISTRICT OF NEVADA

8 * * * * *

9 In re:) BANKRUPTCY NUMBER:
10 DAVID O'LEARY &) BK-S-09-16427-LBR
NITA O'LEARY) CHAPTER 13
11)
12 Debtor(s).) Date: OST PENDING
13) Time: OST PENDING

14 **MOTION TO REINSTATE AUTOMATIC STAY RE: SECURED CREDITOR**
DEUTSCHE BANK TO PROHIBIT SALE AND REINSTATE THE AUTOMATIC STAY

16 Comes now, the Debtors, above-named, by and through their attorney, RANDOLPH
17 H. GOLDBERG, ESQ., moves this Court for an order approving the Motion to Reinstate the
18 Automatic Stay re: Secured Creditor DEUTSCHE BANK to prohibit sale, as set forth in the points
19 and authorities attached hereto.

21 DATED this _____ day of _____, 2010.

22 LAW OFFICES OF
23 RANDOLPH H. GOLDBERG

24 By /s/Randolph H. Goldberg/s/
25 RANDOLPH H. GOLDBERG, ESQ.
26 4000 S. Eastern Avenue, Suite 200
27 Las Vegas, Nevada 89119
28 Attorney for Debtor

1
2 POINTS AND AUTHORITIES
3

4 11 U.S.C. Sec. 362(a) states as follows:
5
6

7 (a) Except as provided in subsection (b) of this section, a
8 petition filed under section 301, 302, or 303, of this title, or an
9 application filed under section 5(a)(3) of the Securities Investor
10 Protection Act of 1970 (15 U.S.C. 78eee(a)(3)), operates as a stay,
11 applicable to all entities, of -
12

13 (1) the commencement or continuation, including the
14 issuance or employment of process, of judicial, administrative, or
15 other action or proceeding against the debtor that was or could have
16 been commenced before the commencement of the case under this
17 title, or to recover a claim against the debtor that arose before the
18 commencement of the case under this title;....
19

20 STATEMENT OF FACTS
21

22 A Motion for Relief from Automatic Stay was filed by Deutsche bank and set for
23 hearing on January 15, 2010. The debtor has been making the house payments since the bankruptcy
24 has been filed. Prior to the hearing Ms. O'Leary gave copies of the cashiers checks to Mr.
25 Goldberg's office and those were in turn faxed to Gregory Wilde's office. The debtors through
26 their attorney have been working on a resolution and putting the stay back in place. To this date
27 there is no resolution. Mr. Wilde has postponed the sale so that the problem can be resolved.
28

29 An entered order lifting the automatic stay was signed by the court on February 22, 2010.
30 This order should have never been entered. The debtor is current on all post petition payments with
31 regards to the house and prays the court reinstate the automatic stay in this case.
32
33
34
35
36
37
38

1
2 WHEREFORE debtors' respectfully request that any pending sale be canceled.
3

4 THAT the stay provided under Chapter 13 of the Bankruptcy Code be reinstated
5 and

6 the Order Granting the Motion for Relief from Automatic Stay be vacated.

7 DATED this _____ day of _____, 2010.
8
9

10 Respectfully submitted,
11
12 By /s/Randolph Goldberg/s/
13 RANDOLPH H. GOLDBERG, ESQ.
14 4000 S. Eastern, Suite 200
15 Las Vegas, Nevada 89119
16 Attorney for Debtor
17
18
19
20
21
22
23
24
25
26
27
28